



# PLANNING & ZONING

## AGENDAS & MINUTES

### MINUTES OF THE REGULAR MEETING OF AUGUST 23, 2012

The regular meeting of the Sussex County Planning and Zoning Commission was held Thursday evening, August 23, 2012 in the County Council Chambers, County Administrative Office Building in Georgetown, Delaware.

The meeting was called to order at 6:00 p.m. with Chairman Wheatley presiding. The following members of the Commission were present: Mr. Robert Wheatley, Mr. Michael Johnson, Mr. Rodney Smith, Mr. I. G. Burton III, and Mr. Martin Ross, with Mr. James Griffin – Assistant County Attorney, Mr. Lawrence Lank – Director, and Mr. Shane Abbott – Assistant Director.

Mr. Lank advised the Commission that Item #7 under Other Business was removed from the Agenda on August 21, 2012.

Motion by Mr. Smith, seconded by Mr. Burton, and carried unanimously to approve the Agenda as amended. Motion carried 4 - 0. Mr. Johnson was not present during the vote.

Motion by Mr. Smith, seconded by Mr. Burton, and carried unanimously to approve the Minutes of August 9, 2012 as circulated. Motion carried 4 - 0. Mr. Johnson was not present during the vote.

### OLD BUSINESS

C/U #1932 – application of **Tanya A. Gibbs and Kimwuan L. Gibbs** to consider the Conditional Use of land in a GR General Residential District for an automotive sales lot to be located on a certain parcel of land lying and being in Indian River Hundred, Sussex County, containing 27,250 square feet, more or less, lying southeast of Road 285 (Beaver Dam Road), 2,500 feet south of Road 287 (Kendale Road)(Tax Map I.D. 2-34-6.00-13.00).

It is noted that this application was deferred for further consideration after the public hearing on July 12, 2012, and again under Old Business on July 26, 2012 and August 9, 2012.

Mr. Johnson stated that he would move that the Commission recommend denial of C/U #1932 for Tanya A. Gibbs and Kimwuan L. Gibbs for an automotive sales lot based upon the record made during the public hearing and for the following reasons:

- 1) At this point, the application is too speculative. The Applicants did not provide enough detail about their plans for the use, how many cars would be offered for sale, how the sales would be conducted, where customers would park, etc.

- 2) The proposed use is incompatible with the surrounding area. There are no other uses as intensive as a used car lot in the vicinity of this site.
- 3) The proposed use is inconsistent with the Applicant's current use of the site as a day care center. Mixing small children and parent pickups, with used car sales and the traffic generated by a used car lot, could lead to a dangerous situation on the site or adjacent roadways.
- 4) This proposed use is better suited for a location where the proper zoning already exists, or along a major arterial roadway.
- 5) In summary, I am not satisfied that the Applicant made a sufficient record to support the approval of this application in this location.

Motion by Mr. Johnson, seconded by Mr. Burton, and carried unanimously to forward this application to the Sussex County Council with the recommendation that this application be denied for the reasons stated. Motion carried 5 – 0.

C/U #1936 – application of **CHESTER TOWNSEND, IV** to consider the Conditional Use of land in an AR-1 Agricultural Residential District for a food vendor to be located on a certain parcel of land lying and being in Baltimore Hundred, Sussex County, containing 1.0 acre, more or less, lying north of Route 26, 0.2 mile northeast of Road 342 (Sandy Lane Road)(Tax Map I.D. 1-34-11.00-3.00).

It is noted that action on this application has been deferred for further consideration since July 26, 2012.

Mr. Smith stated that he would move that the Commission recommend approval of C/U #1936 for Chester Townsend, IV for a food vendor in an AR-1 Agricultural Residential District based upon the record made at the public hearing and for the following reasons:

- 1) This project is located on Route 26, which is appropriate for a small take-out vendor of the type proposed by the Applicant.
- 2) It is in the vicinity of other business uses in the area including landscaping, restaurant equipment sales, daycares and similar businesses.
- 3) The use will be limited to take-out seafood. The Applicant is a local commercial fisherman and this proposed use is an extension of his commercial fishing operation.
- 4) This is the fourth summer season that the Applicant has conducted business in the area. They originally set up a commercial site near the Vines Creek Bridge and desire to relocate their business onto the property owned by them that is the subject of this application.
- 5) This recommendation is subject to the approval of the Board of Adjustment for the use of the mobile home type trailer for business purposes.
- 6) This recommendation will allow the Applicant to continue his local business with conditions and stipulations regulating the use so that it does not have an adverse impact upon neighboring properties, the community or area roadways.
- 7) This recommendation is subject to the following conditions:
  - A. The use shall be limited to a take-out style seafood vendor. Other than the few picnic tables that currently exist on the site, no additional seating shall be installed for food service. The existing picnic tables shall be shown on the Final Site Plan.

- B. The use shall be seasonal, operating from April 1 through November 1, with hours of operation as stated by the Applicant of Thursday, Friday and Saturday from 11:00 a.m. to 8:00 p.m.
- C. There shall only be one lighted sign on the site not to exceed 32 square feet in size. This limitation on the number of signs include a prohibition against sign cut-outs, pictures or replicas of various types of seafood, including lobsters, crabs, shrimp, etc. No feather flags or free standing signs of any shape or size shall be permitted. The location of the 32 square foot sign shall be shown on the Final Site Plan for the property.
- D. The entrance shall be approved by DelDOT and noted and depicted on the Final Site Plan.
- E. Any security lighting shall be screened so that it does not shine on neighboring properties or roadways.
- F. No parking in the front yard setback shall be allowed. The designated parking area shall be shown on the Final Site Plan and clearly marked on the site itself.
- G. This recommendation is contingent upon the Sussex County Board of Adjustment approving the mobile home type structure for a business.
- H. The Final Site Plan shall be subject to the review and approval of the Sussex County Planning and Zoning Commission.

Motion by Mr. Smith, seconded by Mr. Ross, and carried with four (4) votes to forward this application to the Sussex County Council with the recommendation that the application be approved for the reasons and with the conditions stated. Motion carried 4 – 0, with Mr. Johnson abstaining.

C/U #1938 – application of **KAREN BARWICK** to consider the Conditional Use of land in an AR-1 Agricultural Residential District for a therapist office and residence to be located on a certain parcel of land lying and being in Lewes and Rehoboth Hundred, Sussex County, containing 22,161 square feet, more or less, lying north of Route 24 (John J. Williams Highway) 425 feet east of Road 275 (Plantation Road)(Tax Map I.D. 3-34-12.00-85.00).

It was noted that on August 9, 2012 the Commission deferred action for further consideration.

There was a motion by Mr. Smith that the Commission recommends denial of C/U #1938 for Karen Barwick for a therapist office and a residence based upon the record made at the public hearing and for the following reasons:

- 1) The site is located in an area on the north side of Route 24 that is entirely residential. While the site has vehicular access to Route 24, DelDOT has directed that all vehicles must exit via Collins Avenue, which is a private residential street. The proposed use of the property for group therapy sessions is not compatible with this site under these traffic limitations.
- 2) The site does not provide a safe means of ingress, egress, internal maneuvering or parking. The internal roadways and parking areas are very confined and do not appear suitable for large group meetings.
- 3) There are other locations, including churches and meeting halls in the vicinity, that are more suitable for the types of group meetings that the Applicant wants to conduct.

- 4) This recommendation does not affect the Applicant's primary service of providing one-on-one therapy sessions with single clients while she resides in the home. This use, as a home occupation, is permitted on the site. It is only the larger therapy sessions, which are incompatible with the surrounding residential character, that should occur elsewhere.

Motion died for the lack of a second.

Mr. Johnson stated that he has not reviewed the record; that he is not in the position to vote; and that he is willing to review the record so that he may participate in the vote at a later meeting.

Mr. Smith stated that he is willing to defer action to allow Mr. Johnson time to review the record, and noted that the Applicant purchased the property knowing that the home occupation could be approved.

Mr. Ross stated that he understands Mr. Smith's concerns about parking, group sessions, and that a limitation on the number of participants in a group session could be stipulated.

Mr. Burton agreed that the number of participants in a group session could be stipulated.

Mr. Smith expressed concerns about outside activities on site.

Motion by Mr. Smith, seconded by Mr. Johnson, and carried unanimously to defer action for further consideration and to allow Mr. Johnson time to review the record so that he may participate in the vote on this application. Motion carried 5 – 0.

C/U #1940 – application of **PHIL DePENNA** to consider the Conditional Use of land in an AR-1 Agricultural Residential District for a physical training studio and gym, to be located on a certain parcel of land lying and being in Broad Creek Hundred, Sussex County, containing 33,418.9 square feet, more or less, lying east of Route 13A (Seaford Road) 1,000 feet north of Road 480 (Mount Zion Road)(Tax Map I.D. 1-32-12.00-20.00).

It was noted that on August 9, 2012 the Commission deferred action for further consideration.

Mr. Ross stated that he would move that the Commission recommend approval of C/U #1940 for Phil DePenna for a physical training studio and gym in an AR-1 Agricultural Residential District based upon the record made during the public hearing and for the following reasons:

- 1) The use will be very limited in scope and is situated in a property that has historically been used for commercial purposes. There was testimony that it has been used for a recap tire sales and service shop, a sandwich shop, and a church. This proposed use will be consistent with the history of the property.
- 2) The Applicant intends to reside upon the property and will control its use.
- 3) The use will be a benefit to the health, safety, and welfare of Sussex County residents because it will provide a gym and physical training studio for residents in the Seaford and Laurel areas.
- 4) The proposed use will not have any adverse impact on traffic or on adjacent and neighboring properties.

- 5) The proposed use is consistent with other small businesses in the area, including a bait and tackle shop, garages, car sales, and a skating rink.
- 6) This recommendation is subject to the following conditions:
  - A. The use shall be for a physical training studio and gym situated on the first floor of the existing building on the site.
  - B. One lighted sign, not to exceed 32 square feet in size, shall be permitted.
  - C. Parking for clients shall be clearly marked on the site and the location of the parking spaces shall be included on the Final Site Plan.
  - D. All entrances and roadway improvements shall be subject to the requirements of the Delaware Department of Transportation.
  - E. The Final Site Plan shall be subject to the review and approval of the Sussex County Planning and Zoning Commission.

Motion by Mr. Ross, seconded by Mr. Smith, and carried with four (4) votes to forward this application to the Sussex County Council with the recommendation that the application be approved for the reasons and with the conditions stated. Motion carried 4 – 0, with Mr. Johnson abstaining.

#### PUBLIC HEARINGS

C/U #1942 – application of **DOUGLAS L. BOOZER** to consider the Conditional Use of land in an AR-1 Agricultural Residential District for storage, maintenance and general office for contracting/excavating services, to be located on a certain parcel of land lying and being in Broadkill Hundred, Sussex County, containing 10.56 acres more or less, lying south of Huff Road (Road 252) 2,000 feet west of Route 30 (Tax Map I.D. 2-35-24.00-39.13).

The Commission found that on August 13, 2012 the Applicant provided an Exhibit Packet for consideration. The Packet includes an aerial photograph of the site; a listing of Key Personnel of Pennoni Associates, Inc.; qualifications of Mark H. Davidson and Douglas D. Barry, P.E. of Pennoni Associates, Inc.; a copy of the site plan for the project; a copy of the application form; a copy of the deed to the property; a copy of the survey to the property; a copy of the Service Level Evaluation Request sent to DelDOT; a DelDOT Support Facilities Report, dated October 10, 2011, on the site; a Site Evaluation Report from Atlantic Resource Management, Inc. submitted to DNREC; a copy of the Tax Map of the area; suggested proposed Findings of Fact; suggested proposed Conditions of Approval; a copy of a letter from Robin West in support of the application; and a fax from Richard L. Malone in support of the application.

Mr. Lank advised the Commission that a letter from James Cassidy was received in support of the application referencing that the use will have no negative effect on the surrounding area and that the business has had a positive effect on the area during extreme weather events such as heavy snow fall in recent years.

The Commission found that Douglas Boozer was present with Mark Davidson of Pennoni Associates, Inc. and that they stated in their presentation and in response to questions raised by the Commission that the site is predominantly wooded except for the area around the building; that the driveway and entrance already exists; that according to the State Strategies the site is

located in a Level 4; that the Applicant has lived along Huff Road for approximately 19 years; that the Applicant lives across from the site; that Mr. Davidson has a Conditional Use on his property for his surveying business; that the Applicant is a licensed septic installer; that the Applicant has been in the installation and excavating business for approximately 12 years; that that site is located in a Low Density Area according to the Comprehensive Plan; that the Applicant performs lot clearing and digs footers, foundations, basements, underground storage tanks, test pits, and installs septic systems; that the Applicant also uses his equipment for snow removal; that currently the Applicant has five (5) employees; that the site will provide an area for storage of his equipment so that employees can access the office and equipment to go to job sites; that a security gate already exists; that the storage building is approximately 450 feet from Huff Road; that they are proposing to include an office, storage bins for materials, and six (6) parking spaces for employees; that there is adequate space available for parking for additional vehicles, if needed; that an on-site well exists; that a septic system approval has been issued; that they currently do not have a need for the septic system, so a porta-toilet is utilized; that they will comply with all Sussex Conservation District requirements; that they have offered suggested proposed Conditions of Approval and Findings of Fact in the Exhibit Packet; that they are proposing greater setbacks than those required; that the building is screened from view from Huff Road; that all repair work will be performed inside the building; that the closest residence is approximately 600 feet away; that the driveway will be increased to 24 feet width; and that a 50-foot wide buffer will be depicted on the site plan.

Mr. Davidson added that, personally and as a neighbor, he and his neighbors appreciate the snow and tree removal performed by the Applicant during extreme winter events in the past.

The Commission found that there were no parties present in support of or in opposition to this application.

At the conclusion of the public hearings, the Commission discussed this application.

Motion by Mr. Johnson, seconded by Mr. Burton, and carried unanimously to defer action for further consideration. Motion carried 5 – 0.

C/U #1943 – application of **CHARLES L. WILLIAMS** to consider the Conditional Use of land in an AR-1 Agricultural Residential District for an automotive repair shop/garage, to be located on a certain parcel of land lying and being in Lewes and Rehoboth Hundred, Sussex County, containing 1.565 acres, more or less, lying north end of Summer Place, a private road, 265 feet north of Road 291 (Martins Farm Road) and being approximately 3,000 feet east of Route 5 (Tax Map I.D. 3-34-9.00-1.03).

Mr. Lank reminded the Commission that they had been provided with a copy of a letter from the Applicant which concluded with his reasons for requesting a Conditional Use, and the potential concerns with a Conditional Use.

The Commission found that DelDOT provided comments in the form of a Support Facilities Report, dated July 5, 2012, referencing that a traffic impact study was not recommended, and that the current Level of Service “A” of Road 291 will not change as a result of this application.

Mr. Lank advised the Commission that on May 12, 2012 he had sent the Applicant a letter in reference to activities in the garage; that he could not receive any goods, services, or payment from anyone or it will be considered that a business is being operated from the garage/property; that he is not operating a business from the garage, only providing a location where friends and neighbors can gather socially and enjoy a hobby of doing repair work on their vehicles using his lift and tools; that he could not receive payment for his services for assisting friends and neighbors in doing repair work or for the use of his lift and/or tools, or garage; that we had been receiving complaints about the possibility of a business being operated; that the Department would be periodically checking the property for compliance with the regulations; that the County reserves the right to pursue any appropriate remedies to enforce a violation of any County Codes; and offering an explanation of the requirements for a Conditional Use for an auto repair shop.

Mr. Lank provided the Commission with copies of his letter which responded to a letter from the Applicant. The Applicants letter, dated April 13, 2012, was also provided.

Mr. Lank provided an aerial photograph of the site for the Commissions review.

Mr. Lank provided the Commission with a packet of photographs of the site, the easement to the site, the garage, the interior of the garage, and signage placed along Martin Farm Road for review.

Mr. Lank provided the Commission with a packet of seven (7) letters in support of the application for review.

Mr. Lank provided the Commission with a packet of 64 letters in opposition to the application for review, and advised the Commission that 34 of the letters were based on a form letter, 15 of the letters were based on another form letter, five (5) of the letters were submitted by one of the neighbors; and 10 of the letters were submitted by individuals.

Mr. Lank advised the Commission that copies of all of the correspondence would be made available to the Commission upon their request.

The Commission found that Charles Williams was present with John Brady, Attorney, and that they stated in their presentation and in response to questions raised by the Commission that the Applicant is not eligible to receive payment for services due to his disability insurance; that the Applicant is asking for the opportunity to have a mechanic on site to provide the repair services and be paid by the vehicle owner for those services; that the Applicant has lived on the site for approximately 12 years; that this application is for a Conditional Use that can have stipulations and conditions imposed, not a change of zoning; that the Applicant built the garage so that he could socialize with friends while working on cars; that normal hours would be from 9:00 a.m. to 8:00 p.m. Monday through Saturday; that there would not be any Sunday hours since the Applicant is an Assistant to a Pastor of one of the churches in the County; that no signage is proposed; that there are at least six (6) other businesses along this area of Martins Farm Road, i.e. lawn maintenance, contractors, small engine repair, etc.; that the Applicant could assist the mechanic by going to local parts stores for parts; that no additional buildings are proposed with

this application; that the Applicant basically has a hobby that he shares with others; that the Applicants goal is to be at peace with his neighbors; that he wants to provide a service to area residents; that he does not work on cars; that he was forced to file this application because of the complaints; that he has allowed his friends to work on their vehicles for approximately four (4) years; that they leave the garage doors open when working on engines to release exhaust fumes; that he is willing to provide exhaust hosing to release the fumes so that the doors can be closed; that the compressor noise can be remedied by moving the compressor to the rear of the building and building an enclosure around the compressor; that the noise created is no greater than a typical lawnmower; that some of the neighbors have fired firearms on their properties which has startle the Applicant and probably the horses on the neighboring property; that access to the site is through an easement across the front lot owned by Robert Walker, Jr.; that the driveway was recently paved to repair the driveway after damages from moving a modular home; that the Applicant had met with Robert Walker, Jr., the property owner in front of his property, and shook hands on the driveway repairs; that the Applicant is willing to post signage about the safety of children in the area; that the number of vehicles being repaired at any one time will not exceed two (2) vehicles; that the garage can tightly store six (6) vehicles; that there will be no more than two (2) vehicles stored on the site, other than the Applicant's personal vehicles; and that this application is not a zoning change, it is a Conditional Use application for a specific use.

The Commission found that Mr. Brady submitted some hand written suggested Conditions of Approval and a copy of the tax map of the area for reference purposes.

Mr. Griffin advised the Commission that the survey does show that an easement exists to serve the site.

The Commission found that Robert Remondi, a neighbor, Wayne Miller, a friend, Frank Murphy, a friend, Nina Bennett, a friend, Steve Scarfo, a nearby resident, Chris Bennett, a friend, Joseph Harris, a nearby resident, Allen Sheldon, the mechanic, Pastor Allen Miller, and Robert Rankin, a nearby resident, were present and spoke in support of the application referencing that the Applicant has always offered his tools for use by neighbors and friends; that the use has been a benefit to the neighbors; that the use has been operated as a hobby; that there is not disturbing noise from the shop; that the Applicant does not charge for use of his tools or lift; that the Applicant is always helpful to his neighbors and friends, the community, and members of his church; that the Applicant's medical condition does not allow him to work; that the fellowship activity is essential for the Applicant's health and wellbeing; that the garage is well kept and maintained; that there are other businesses in the area; that there should be no negative impact on the area; that the garage has two large doors on the front and one large door on the back; that the rear door could be left open for ventilation; that one of the supporters has offered to provide air conditioning for the building so that the doors could remain closed during activities; that parts are not throw about; that the site is well maintained; that the work performed is typically performed by vehicle owners and friends; that some of the vehicles repaired are custom cars or hot rods; that those vehicles emit no more noise that the motorcycles owned by neighboring property owners; and that the Applicant only wants to be a good neighbor and work with his neighbors.



The Commission found that Robert Walker, Jr., Luther Layton, Louis Capano, John and Patricia Reimer, John and Gladys Kane, Margaret Foulke, George DeFrehn, and Marlene Henry were present and spoke in opposition to this application expressing concerns about property values; care and maintenance of the private access to the site; noise; use and smell of petroleum products; air and ground pollution; signage; the impact on the quality of life and privacy; depreciation of property values; traffic on a private easement; trespassing; children's safety; the lack of safety signage; the loss of privacy; vandalism to mailboxes in the area; personal threats; the impact on the residential area; abandoned vehicles; tow trucks and delivery trucks to and from the site; the impact on the agricultural area, including the impact on farming operations, i.e. poultry farms, horse farms, and other farm activities; increased traffic, noise and safety concerns along Martins Farm Road; that hiring a mechanic is not a hobby use; that a need was not shown for a repair shop; the number of vehicles waiting for repair; that the lot is small compared to other parcels in the area and the garage, by comparison, is large; that most of the supporters are not area residents; that there are no restrooms available; that work has been performed on vehicles outside of the garage; concerns about the S-curves on Martins Farm Road; that horses are ridden along Martins Farm Road; that the Fire Marshal has concerns about the close proximity between the house and the garage on the site; that the use does not appear to be a hobby due to the number of vehicles to and from the site, including multiple parts vehicles, the late hours of operation, and the open door activities; that the Applicant was cited for junk and/or abandoned vehicles being on the site, and that those vehicles were removed and relocated to other properties in the area and elsewhere; that the building permit issued was for a pole building, not an auto repair garage; that they are concerned about the lack of fencing and the amount of impervious surfaces; that the use does not meet the standards of the Comprehensive Plan for permitted uses in a Low Density Area; that the use does not meet the standards for a Conditional Use in the Zoning Code; that a precedent may be set for other similar uses in the area; that the Applicant's friends should be working on their own vehicles on their own property to see if their neighbors object, not impact neighbors in this area; that there is no benefit or need for this use in this neighborhood; that horses have been spooked from activities at the garage; that fences have had to be repaired from activities on the site; that the Applicant has been seen working on as many as 15 to 20 vehicles per day; that the neighbors are opposing this application and any future business activities in the area; and that the use negatively impacts the quality of life for the residents in the area.

At the conclusion of the public hearings, the Commission discussed this application.

Motion by Mr. Johnson, seconded by Mr. Burton, and carried unanimously to defer action for further consideration. Motion carried 5 – 0.

Mr. Lank advised the Commission that he could have staff copy all of the comments received to date and forward them to the Commission for review.

#### OTHER BUSINESS

CU #1716 – Andrew Lubin  
Determination of Substantially Underway – Route 24

Mr. Abbott advised the Commission that this item was deferred at the August 9, 2012 meeting to allow Mr. Robertson time to review the Conditional Use file and for further consideration; and that since Mr. Robertson is not present, this item should be deferred.

Motion by Mr. Johnson, seconded by Mr. Burton and carried unanimously to defer action.  
Motion carried 5 – 0.

CU #1897 – Russell V. Banks  
Easement Location Discussion – Road 348 (Irons Lane)

Mr. Abbott advised the Commission that this item was deferred at the August 9, 2012 meeting to allow Mr. Robertson time to review the Conditional Use application and the approved Ordinance, and to have Mr. Everett Moore – County Attorney also review the request; and that since Mr. Robertson is not present, this item should be deferred.

Motion by Mr. Smith, seconded by Mr. Ross and carried unanimously to defer action. Motion carried 5 – 0.

American Bayside MR/RPC  
Preliminary Site Plan – Donut Hole – East Sand Cove Road

Mr. Abbott advised the Commission that this is the preliminary site plan for CZ #1701, an MR/RPC, which was approved on March 22, 2011; that the approved Ordinance permits the maximum number of dwelling units to not exceed 55 consisting of townhouses and single-family detached condominiums; that 12 single-family detached units, 29 townhouse style units and 14 duplex units are proposed; that the proposed setbacks for this section are 20-foot front, 10 feet rear and 5-foot side yards for the single-family detached units and 20-foot front and 15 feet rear yard aggregates for the townhouse units; that these setbacks are consistent with other sections of Americana Bayside; that 115 parking spaces are proposed; that the project will be served by central water and sewer; that there are no encroachments into the wetlands; that the site plan is suitable for preliminary approval; that since the project is a residential planned community, final site plan approval shall be subject to the review and approval by the Planning and Zoning Commission upon receipt of all agency approvals; and that the Commission was previously provided a copy of the preliminary site plan.

Motion by Mr. Smith, seconded by Mr. Ross and carried unanimously to approve the site plan as a preliminary. Motion carried 5 – 0.

Crist and Brian Zook  
CU #1931 Site Plan – Road 611 (Owens Road)

Mr. Abbott advised the Commission that this is a site plan for a 2,600 square foot woodworking shop with a 3,170 square foot lean-to located on 3.80 acres; that this Conditional Use was approved on June 26, 2012 with 5 conditions; that the conditions of approval are noted and depicted on the site plan; that the proposed dumpster is located behind the wooded area along Owens Road but is also located near the front of the building; that 3 parking spaces and a loading

space are proposed; that the setbacks meet the requirements of the zoning code; that on-site septic and well are proposed; that all agency approvals have been received; that the site plan is suitable for final approval if you determine that the dumpster is adequately screened; and that the Commission was previously provided a copy of the site plan.

Motion by Mr. Burton, seconded by Mr. Johnson and carried unanimously to approve the site plan as a preliminary with the stipulation that the dumpster on the site plan be relocated to the rear of the building. Motion carried 5 – 0.

CVS Pharmacy  
CU #1868 Site Plan – Savannah Road

Mr. Abbott advised the Commission that this is a preliminary site plan for a 13,281 square foot pharmacy located on 1.43 acres; that this Conditional Use was approved on May 24, 2011 with 17 findings and conditions; that the findings and conditions are noted on the site plan; that the setbacks meet the requirements of the zoning code; that 51 parking spaces are required and 61 spaces are proposed; that the site will be annexed into the County sewer district; that Tidewater Utilities will provide central water; that a landscaping plan has been submitted; that if preliminary approval is granted, final site plan approval could be subject to the staff receiving all agency approvals; and that the Commission was previously provided a copy of the site plan.

Motion by Mr. Burton, seconded by Mr. Smith and carried unanimously to approve the site plan as a preliminary with the stipulation that final site plan approval shall be subject to the staff receiving all agency approvals. Motion carried 5 – 0.

Bayville Shores HR/RPC  
Utility Site Plan – Route 54

Mr. Abbott advised the Commission that this is an utility site plan for ground mounted and carport mounted solar panels to serve the Bayville Shores residential planned community; that the solar panels will be installed in the common areas of the project; that the panels meet the minimum setback requirements of the zoning code; that the condominium association supports the proposal; and that the Commission was previously provided a copy of the site plan.

Motion by Mr. Smith, seconded by Mr. Ross and carried unanimously to approve the site plan as submitted. Motion carried 5 – 0.

Subdivision #2005 – 78 – Delmarva Woodlands Alliance  
Cool Spring Meadows – Amended Conditions

This item was removed from the Agenda on August 21, 2012.

Joan B. Hitchens  
Lot on 50' Right of Way – Road 432

Mr. Abbott advised the Commission that this is a request to create a 1.0 acre lot with access from an existing recorded 50-foot right of way; that the request may be approved as submitted, or an application for a major subdivision can be required; and that the Commission was previously provided a sketch drawing of the request.

Motion by Mr. Ross, seconded by Mr. Smith and carried unanimously to approve the request as submitted as a concept. Motion carried 5 – 0.

John H. Parker, Sr.

2 Lots and 50' Easement – Road 326 (State Street)

Mr. Abbott advised the Commission that this is a request to subdivide a parcel into 2 lots with access from a 50-foot easement; that the lots will contain 0.94 and 0.95 acres respectfully; that the owner is proposing to create the 50-foot easement over an existing driveway; that the request may be approved as submitted as a concept only since a variance would be required from the Board of Adjustment for the minimum lot depth of 100 feet, or an application for a major subdivision can be required; and that the Commission was previously provided a sketch drawing of the request.

Motion by Mr. Smith, seconded by Mr. Ross and carried unanimously to approve the request as submitted as a concept subject to the applicant receiving a variance for the minimum lot depth of 100 feet from the Sussex County Board of Adjustment. Motion carried 5 – 0.

Bonita Spencer

2 Lots and 50' Easement – Road 308 (Cordrey Road)

Mr. Abbott advised the Commission that this is a request to subdivide a 12.57 acre parcel into 2 lots with access from a 50-foot easement; that Lots 1 and 2 will both contain 4.19 acres and the remaining 4.19 acres will be an extension to an adjoining parcel; that the owner is proposing to create the 50-foot easement over an existing driveway; that the request may be approved as submitted, or an application for a major subdivision can be required; and that the Commission was previously provided a sketch drawing of the request.

Motion by Mr. Johnson, seconded by Mr. Burton and carried unanimously to approve the request as submitted as a concept. Motion carried 5 – 0.

#### ADDITIONAL BUSINESS

Mr. Lank advised the Commission that there will only be three public hearings on the September 6, 2012 Agenda and discussed holding a special meeting for Old and Other Business items.

There was a consensus of the Commission to hold a special meeting on September 13, 2012 at 6:00 p.m. for Old and Other Business items.

Meeting adjourned at 8:36 p.m.